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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,456	07/07/2003	Herbert Cermak	GKNG 1165 PUS	7576
27256	7590	12/27/2005	EXAMINER	
ARTZ & ARTZ, P.C. 28333 TELEGRAPH RD. SUITE 250 SOUTHFIELD, MI 48034			HEITBRINK, JILL LYNNE	
			ART UNIT	PAPER NUMBER
			1732	

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/614,456	<b>Applicant(s)</b> CERMAK, HERBERT	
	<b>Examiner</b> Jill L. Heitbrink	<b>Art Unit</b> 1732	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 10-16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al. Pat. No. 3,013,920 taken together with Douglass Pat. No. 6,205,907.

3. Harris discloses a process of molding a flexible diaphragm or roll boot wherein the basic member 30 is turned inside out and then replaced on the form Fig. 5, see col. 3, lines 63-65. Douglass discloses a process of injection molding a roll diaphragm which is an improvement from the use of a fabric. It would have been obvious to a person of ordinary skill in the art to injection mold the diaphragm on to the form (Fig. 4 of Harris) and then turn the diaphragm inside out (Fig. 5 of Harris) since the injection molding can be performed to produce a more symmetrical diaphragm. The injection molding of two widened portions would have been obvious multiplicity when forming a roll diaphragm which is used in an apparatus with two rolling portions.

4. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al. Pat. No. 3,013,920 taken together with Douglass Pat. No. 6,205,907 as applied to claims 1-4, 10-16 and 18-20 above, and further in view of Chilton Pat. No. 2,178,953.

5. Chilton teaches the wall thickness which decreases from the cylindrical portion to its free end (page 1, right column, lines 13-16). It would have been obvious to provide the diaphragm of Harris with a wall thickness which decreases from the cylindrical portion to its free end since this will ease the change in circumference during rolling.

6. Claims 5-9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al. Pat. No. 3,013,920 taken together with Douglass Pat. No. 6,205,907 as applied to claims 1-4, 10-16 and 18-20 above, and further in view of Voss Pat. No. 3,797,816.

7. Chilton teaches the wall thickness which decreases from the cylindrical portion to its free end (col. 2, lines 67-68) and the use of a clamp band (13, col. 3, lines 3-8). It would have been obvious to provide the diaphragm of Harris with a wall thickness which decreases from the cylindrical portion to its free end and with a clamp band since these would provide ease in change in circumference during rolling and maintain the diaphragm attached to the moving members.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bull et al. and JP 2001-225984 are cited for teaching the turning of the molded product inside out to relieve stress.

### ***Response to Arguments***

9. Applicant's arguments filed October 4, 2005 have been fully considered but they are not persuasive.

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10. Applicant's comments to Harris have been considered. However, Harris discloses the basic member 30 is turned inside out and then replaced on the form Fig. 5, see col. 3, lines 63-65.

11. Douglass (see col. 1, line 65-col. 2, line 34) is combined to teach the use of injection molding rather than the use of corded fabric. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

12. In response to applicant's argument that the references are not directed toward relieving stresses in the roll wall, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill L. Heitbrink whose telephone number is (571) 272-1199. The examiner can normally be reached on Monday-Friday 9 am -2 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jill L. Heitbrink  
Primary Examiner  
Art Unit 1732

jlh